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U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION V
230 South Dearborn Street
Chicago, Illinois 60604

IN THE MATTER OF)	Docket No.
AUTO-ION)	
Kalamazoo, Michigan)	
)	
James J. Rooney, Consumer's Power Company,)	
Dana Corporation, and the Sheller-Globe)	
Corporation, Respondents)	
)	
Proceeding under Section 106(a))	
of the Comprehensive Environmental)	
Response, Compensation & Liability)	
Act of 1980, 42 U.S.C. §9606(a))	

PREAMBLE

This Order is issued to James J. Rooney, Consumer's Power Company, Dana Corporation, and the Sheller-Globe Corporation, pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. 9606(a), and delegated to the U.S. Environmental Protection Agency (U.S. EPA) by Executive Order No. 12316, August 26, 1981, 46 Federal Register 42237, and redelegated to the Regional Administrator by Delegation 14-14 issued April 1, 1983. Notice of issuance of this Order has been given to the State of Michigan.

This Order requires the Respondents, and each of them, to undertake emergency removal activities at the Auto-Ion site located in Kalamazoo, Michigan, to abate an imminent and substantial endangerment arising from the improper storage and disposal of hazardous substances.

DETERMINATIONS AND FINDINGS

1. Respondent James J. Rooney, is the former owner and operator of Auto-Ion located at 74 Mills Street, Kalamazoo, Michigan. Between the years 1963 and 1973, hazardous substances were deposited, stored, disposed of, placed or otherwise located at this site. Said site constitutes a facility within the meaning of Section 101(9) of CERCLA, 42 U.S.C. §9601(9), and shall herein-after be referred to as the "facility". Respondent was an owner and operator of the facility within the meaning of Section 101(20) of CERCLA, 42 U.S.C. §9601(20), and is therefore responsible for the amelioration of the releases of hazardous substances described herein.

2. Consumers Power Company, Inc. retained title to the facility until 1973, when Auto-Ion fulfilled the terms of the 1963 land contract entered into by the two parties, and is therefore an "owner" within the meaning of Section 101(20) of CERCLA, 42 U.S.C. §9601(20), and is therefore responsible for the amelioration of the releases and threats of releases of hazardous substances described herein.

3. A northern Indiana plant of Sheller-Globe, Inc. was identified by Roger Przbysz of the Michigan Department of Natural Resources (DNR) and in records obtained from Auto-Ion as one of the generators of hazardous substances that was disposed of by James Rooney at Auto-Ion, and Sheller-Globe is therefore responsible for the amelioration of the releases and threats of releases of hazardous substances described herein.

4. A plant operated by Dana Corporation was identified by Tom Leep of the Michigan DNR as a generator of hazardous substances that were disposed of at Auto-Ion, and Dana Corporation is therefore responsible for the amelioration of the releases and threats of releases of hazardous substances described herein.

5. On February 2 and 21, 1984, a site assessment was conducted at the Auto-Ion facility by the U.S. EPA Region V Technical Assistance Team (TAT). Background information was collected from the Michigan DNR and from a previously prepared Emergency Action plan. The site is currently surrounded by a 6 foot high chain link fence with barbed wire. Several sections of the fence have been vandalized. These sections are chained and locked together to prevent further passage. Many of the building's windows are broken and have been boarded up. Also, debris and sparse vegetation are prevalent throughout the site. Drums are scattered around the site, many are badly deteriorated. Several drums were discovered outside the main fenced area along the river bank. An abandoned Auto-Ion tank trailer is located on the south side of the building adjacent to the outside lagoon. The lagoon area contains five tanks. There are two tanks on the north side of the lagoon. One of these is half full. The southeastern acid tank contains several inches of a fine, powdery material. The extreme southwestern tank is dripping at the

valve stem. The lagoon contains 2 to 2 1/2 feet of greenish liquid with sludge on the bottom. Several drums and containers are submerged in the liquid. Debris is scattered throughout the building. Drums and bottles of laboratory chemicals were noted in various sections of the building along with several large process tanks. Many of the floor sections are badly corroded and can not be walked on. One large floor section, open to the basement, reveals sludge waste deposited in the basement. Drums and debris are also present in the basement area.

6. Analysis of samples of waste collected at this facility indicated the presence of high levels of cyanide, hexavalent chromium, total chromium, other metals, and low pH materials. These substances can be toxic or cause dangerous side effects if ingested, and are hazardous substances within the meaning of 42 U.S.C. §9601(14). Waste materials found at the Auto-Ion site present substantial threats to human health and the environment. Multiple hazards, releases and/or threats of releases exist due to deteriorated drums and storage tanks, the highly contaminated water and sludges in the lagoon and basement areas, and the deteriorated structural integrity of the building.

7. The facility is situated in a commercial and industrial district within 1/2 mile of two schools, and across the river from a park and golf course.

Drinking water wells are within a mile of this facility. The Kalamazoo River flows in a west-northwesterly direction 75 feet south of the main structure.

8. Based on the foregoing determinations and findings, it has been determined that there may be an imminent and substantial endangerment to the public health or welfare or the environment due to a release or threat of a release of hazardous substances at the facility and the issuance of the following Order is appropriate.

ORDER

Pursuant to Section 106(a) of CERCLA, 42 U.S.C. 9606(a), it is hereby ORDERED that the Respondents, and each of them, shall undertake the following activities:

1. Within ten (10) days after the effective date of this Order, the site shall be secured to prevent intruders from using the facility. At a minimum, site security shall consist of:

A) Installation of two warning signs stating "Danger Hazardous Materials --- Unauthorized Personnel Keep Out". These signs, with 3 inch letters, should be placed on the chain link fence. These signs should be visible from 25 feet away and posted on the north and east side of the facility.

B) Respondents shall regularly inspect and repair any further damage caused by vandalism to the fence until all response activities are complete.

2. Within eight (8) weeks after the effective date of this Order all hazardous wastes shall be removed from the facility. The following interim schedule shall be complied with:

A) Within ten (10) days of the effective date of this Order, drums, sludges and liquids shall be sampled and analyzed to determine compatibility of the waste and to permit the proper disposal of the waste in a manner consistent with Sections 3002, 3003, and 3004 of the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. §§6922, 6923, and 6924, and all other appropriate Federal, state and local requirements.

B) Within twenty-one (21) days of the effective date of this Order, waste analysis shall be completed and waste bulking and removal shall commence; and

C) Within fifty-six (56) days waste bulking shall be completed; proper permits shall have been obtained and the drums and all other waste removed from the site and disposed of at an approved disposal facility.

3. Within seven (7) days after the effective date of this order, Respondents shall provide notice in writing to the U.S. EPA stating their intention to comply with the terms hereof. In the event any Respondent fails to provide such notice, said Respondent shall be deemed not to have complied with the terms of this Order. Respondents are responsible for coordinating response activities among themselves in consultation with the On-Scene Coordinator for U.S. EPA.

4. Respondents shall, consistent with any rights they may have in the facility, provide access to the facility to U.S. EPA employees, contractors, agents and consultants at reasonable times, and shall permit such persons to be present and move freely in the area in order to conduct inspections, take samples, and to conduct other activities which U.S. EPA determines to be necessary.

5. The provisions of this Order shall be binding on employees, agents, successors, and assigns of the parties.

6. Nothing contained herein shall be construed to prevent U.S. EPA from seeking legal or equitable relief to enforce the terms of this Order or from taking other legal or equitable action as it deems appropriate and necessary; or from requiring Respondents in the future to perform additional activities pursuant to CERCLA, 42 U.S.C. §9601, et seq., or any other applicable law.

All notices and consultation required under the terms of this Order shall be directed to Jonathan T. McPhee, Assistant Regional Counsel, at the following address:

Mr. Jonathan T. McPhee
U.S. EPA, Region V
Office of Regional Counsel
230 South Dearborn Street
Chicago, Illinois 60604
312/ 886-6719

This order shall be effective upon receipt unless a conference is requested as hereinafter provided. If a conference is requested, this Order shall be effective on the third day following the day of the conference unless modified by the Regional Administrator.

OPPORTUNITY FOR CONFERENCE

With respect to the actions required above, you may within three (3) days after receipt of this Order request a meeting with U.S. EPA to present evidence relating to this Order, its applicability to you, the correctness of

any factual determinations upon which the Order is based, the appropriateness of any action which you are ordered to take and any other relevant and material issue. Any such presentation of evidence shall be held within seven (7) days from the date of request. However, you are hereby placed on notice that U.S. EPA will take any action which may be deemed necessary in the opinion of U.S. EPA for the protection of public health and welfare and the environment, and Respondents may be liable under Section 107(a) of CERCLA for the costs of those government actions. At any meeting held pursuant to your request, you may appear in person and by an attorney or other representative for the purpose of presenting such evidence as you may have regarding this Order. If you desire such a conference, please contact Mr. Jonathan T. McPhee, Assistant Regional Counsel, U.S. EPA, Region V at (312) 886-6719. Any comments which you may have regarding this Order, its applicability to you, the correctness of any factual determinations upon which the Order is based, the appropriateness of any action which you are ordered to take, or any other relevant and material issue must be reduced to writing and submitted to U.S. EPA on the day of the conference, or if no conference is requested, within seven (7) calendar days following the issuance of this Order. Any such writing should be sent to Jonathan T. McPhee, Assistant Regional Counsel, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

ACCESS TO ADMINISTRATIVE RECORD

The Administrative Record supporting the above Findings, Conclusion and Order is available for review on weekdays between the hours of 8:00 A.M. and 5:00 P.M., in the Office of Regional Counsel, 16th Floor, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago,

Illinois 60604. Please contact Jonathan T. McPhee, 312-886-6719, if you desire to review the Administrative Record.

PENALTIES FOR NONCOMPLIANCE

Respondents are advised that willful violation or subsequent failure or refusal to comply with this Order or any portion thereof may subject Respondent to a civil penalty of not more than \$5,000 per day for each day in which such violation occurs, or such failure to comply continues pursuant to Section 106(b) of CERCLA, 42 U.S.C. 9606(b). Failure to comply with this Order or any portion thereof without sufficient cause may also subject Respondents to liability for punitive damages in an amount three times the amount of any cost incurred by the government as a result of Respondent's failure to take proper action, pursuant to Section 107(c)(3), 42 U.S.C. 9607(c)(3).

WITNESS my hand in the City of
Chicago, State of Illinois, as
Regional Administrator on
this 26 day of June, 1984

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

By: Valdas V. Adamkus
Regional Administrator